

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

TRUSTEES OF THE PENSION, WELFARE)
AND VACATION FRINGE BENEFIT FUNDS)
OF IBEW LOCAL 701,)

Plaintiffs,)

vs.)

No. 10 C 0043

ALLSTAR ELECTRICAL CONTACTORS,)
CORPORATION a limited liability corporation, and)
KATHLEEN CLEYS, Individually,)
a/k/a CATHY CLEYS,)

Defendants.)

MOTION FOR TURNOVER ORDER AND PRODUCTION OF DOCUMENTS

Plaintiffs, Trustees of the Pension, Welfare and Vacation Fringe Benefit Funds of IBEW Local 701 (the “Funds”), by one of their attorneys, JOHN F. ETZKORN, pursuant to F.R.C.P. 69(a)(1) and 735 ILCS para. 5/2(1402(c)(3), respectfully request this Honorable Court a Turnover Order in their favor and against Citation Defendant Harris, N. A. I(“Harris”) in the amount of \$291.91, and also to order Harris to produce enumerated documents as to Defendants’ assets and location. In support of their motion, thereof, Plaintiffs state as follows:

1. This court entered judgment in favor of Plaintiffs and against Defendants in the amount of \$32,881.07 on May 6, 2010.

2. The District Clerk issued a Citation To Discover Assets (“CTDA”) as against Harris, which was served, and Harris has filed a written answer, copy attached, indicating that it is holding \$291.91, but not indicating which Defendants’ account or property is being held, and not providing any of the other information regarding the income or property of, or

indebtedness due and owing to, Defendants ALLSTAR ELECTRICAL CONTACTORS, CORPORATION (“AEC”) and KATHLEEN CLEYS, individually a/k/a CATHY CLEYS, (“CLEYS”) as described in the served CTDA.

3. Pursuant to F.R.C.P. 69(a)(1), the procedure “in proceedings supplementary to and in aid of judgment or execution--must accord with the procedure of the state where the court is located.”

4. Pursuant to 735 ILCS para. 5/2-1402(c)(3), the court may, on discovery of assets or income of the judgment debtor, “Compel any person cited . . . to deliver up any assets so discovered.”

5. Pursuant to the CTDA as served, Harris was required to provide not only personal testimony, which has not been given, but also “all books, papers or records in your possession or control which may contain information concerning the property or income of Defendants or indebtedness due them.”

6. As the answer contains no information regarding which Defendant’s account contains funds, or which accounts or other property are held by Harris, Plaintiffs request Harris to produce the following enumerated records:

a. List of all accounts held or recently closed by Defendants, and the current balances in them,

b. Copies of all personal financial statements, signature cards, loan or account applications, or other documents submitted by Defendants.

7. This information, besides being required pursuant to the CTDA, is also required pursuant to F.R.C.P. 69(a)(2), which allows a judgment creditor to “obtain discovery from any person” “in aid of the judgment.”

WHEREFORE, Plaintiffs, pursuant to F.R.C.P. 69(a)(1) and 735 ILCS para. 5/2(1402(c)(3), request this Court for a Turnover Order in their favor and against Citation

Defendant Harris, N. A. I("Harris") in the amount of \$291.91, and also to order Harris to produce enumerated documents as to Defendants' assets and location.

TRUSTEES OF THE PENSION,
WELFARE AND VACATION FRINGE
BENEFIT FUNDS OF IBEW LOCAL 701,

By: s/ John F. Etzkorn
One of their Attorneys

John F. Etzkorn
ARNOLD AND KADJAN
19 W. Jackson Boulevard
Chicago, IL 60604
(312) 236-0415

IN THE CIRCUIT COURT OF THE 12TH JUDICIAL CIRCUIT
WILL COUNTY, ILLINOIS

THIRD PARTY RESPONDENT ANSWER TO CITATION PROCEEDINGS

Harris NA, certify under penalty of perjury that with regards to the
(Citation Respondent)
property of the judgment debtor, the Citation Respondent files the following answer to this Citation to Discover Assets and is in
possession of the following property of the judgment debtor.

Circle one of more of the following and indicate the amount held:

- A. Savings Account (Amount withheld) \$ 391.91
B. Checking and / or Now Account (Amount withheld) \$ 0.00
C. Certificate of Deposit (Amount held) \$ _____
D. Money Market Account (Amount held) \$ _____
E. Trust Account (Amount held) \$ _____
F. Safety Deposit Box \$ _____
G. No Accounts _____
H. Adverse Claimant: Name _____ Address _____
I. Wage, Salary or Commissions _____
J. Other Personal Property (Describe) _____

Attach a sheet for any additional information required by the Citation

Sub Total 391.91

Less right of offset for other loans _____

Less deduction for fees limited by
205 ILCS 5/48.1

100.00

Total 291.91

According to the business records kept by the Citation Respondent we show the above accounts to be correct.

[Signature]
Agent for Citation Respondent

_____ on oath state.

I am over 21 years of age and not a party to this case. I served the citation to discover assets as follows:

on _____ by leaving a copy with the third party defendant on _____
at the hour of _____ m. at _____ Street, _____ County, Illinois

On the third party defendant _____ by mailing a copy on _____
by certified mail addressed to agent of the third party defendant, return receipt requested.

(attached green card receipt
of service here)

**Signed and sworn by party making service

MHN

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Defendants.

No. 10 C 0043

JUDGE: COAR

ORDER

THIS CAUSE coming on to be heard on Motion of Plaintiffs for Default and for Judgment in Sum Certain, due notice having been given, and Defendants having been served and having failed to Appear and Answer;

IT IS HEREBY ORDERED:

1. Judgment is hereby entered in favor of Plaintiffs and against Defendants ALLSTAR ELECTRICAL CONTACTORS, CORPORATION, and KATHLEEN CYEYS, individually a/k/a CATHY CLEYS, jointly and severally, in the amount of \$32,881.07; and

2. The judgment amount consists of \$32,881.07 consisting of delinquency of \$12,880.00 for contributions due under an audit for the period from January 1, 2007 through May 31, 2009, plus \$1,288.00 for liquidated damages, \$690.00 for audit costs, \$16,303.07 for late charges on late-paid remittances, and \$1,520.00 for attorney's costs, which is hereby awarded pursuant to the provisions of 29 U.S.C. Section 1132(g)(2).

3. Execution may issue instant.

DATED: May 6, 2010

ENTER: David H. Coar
Honorable Judge David H. Coar

John F. Etzkorn
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